

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administration		(2) MEETING DATE July 25, 2006		(3) CONTACT/PHONE Leslie Brown, Administrative Analyst (805) 781-5011	
(4) SUBJECT Request to approve recommended responses to findings and recommendations contained in the June 2006 Grand Jury report on Transfer of Development Credits, and to forward the responses to the Presiding Judge of the Superior Court.					
(5) SUMMARY OF REQUEST The Grand Jury has prepared a report addressing the County's Transfer of Development Credits program and its overall effectiveness in helping the county achieve its goal of retaining agricultural lands and encouraging development in urban areas. The report directs that the Board of Supervisors and the Planning and Building Department respond to all eight findings and four recommendations of the report. This item includes the required responses. Upon approval, the responses will be forwarded to the Presiding Judge.					
(6) RECOMMENDED ACTION It is recommended that your Board approve the attached responses and forward these responses to the Presiding Judge of the Superior Court.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): The Grand Jury conferred with Planning and Building Department staff, and various members of the community concerned with this program.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input checked="" type="checkbox"/> All			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A
(16) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A		
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____			(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date _____
(23) ADMINISTRATIVE OFFICE REVIEW <div style="text-align: center; font-family: cursive; font-size: 1.2em;">OK G. Wilcox</div>					

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County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011



DAVID EDGE
COUNTY ADMINISTRATOR

TO: Board of Supervisors

FROM: David Edge, County Administrative Officer

DATE: July 25, 2006

SUBJECT: Response to the 2005-2006 Grand Jury Report on Transfer of Development Credits

RECOMMENDATION

The Board of Supervisors adopt the response from the Planning and Building Department (attached) as the Board of Supervisor's response to the 2005-2006 Grand Jury Report on the Transfer of Development Credits program and forward these responses to the Presiding Judge.

DISCUSSION

The Grand Jury issued its report June of 2006, which required responses from the Planning and Building Department and the Board of Supervisors on all Findings and Recommendations in the report.

It is recommended that the Board of Supervisors adopt the response from the Planning and Building Department as its response to the subject 2005-2006 Grand Jury Report.

OTHER AGENCY INVOLVEMENT

The Grand Jury conferred with Planning and Building Department staff, and various members of the community concerned with this program.

FINANCIAL CONSIDERATIONS

None; the actions stated in the attached responses do not have a fiscal impact.

RESULTS

Approval of the Grand Jury response will assure the County's compliance with the California Penal Code.

Attachment:
Planning and Building Response

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SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE : JULY 11, 2006

TO: DAVID EDGE, COUNTY ADMINISTRATIVE OFFICER

FROM: KAMI GRIFFIN, SUPERVISING PLANNER

VIA: VICTOR HOLANDA, DIRECTOR, PLANNING AND BUILDING *Victor Holanda*

SUBJECT: RESPONSE TO GRAND JURY REPORT ON THE COUNTYWIDE TRANSFER
OF DEVELOPMENT CREDIT (TDC) PROGRAM

RECOMMENDATION

It is recommended that this report serve as the Department of Planning and Building's response to the Grand Jury Report on the Countywide Transfer of Development Credit (TDC) Program.

DISCUSSION

On June 2006, the Grand Jury issued a report on the Countywide Transfer of Development Credit Program. This response addresses the findings and the recommendations pertaining to the Planning and Building Department.

The Department's complete response is included in the attached report. It is shown in italics following the specific applicable portions of the Grand Jury Report.

OTHER AGENCY INVOLVEMENT/IMPACT

Not Applicable

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in the current department budget.

RESULTS

This response will meet the legal requirements for responding to a Grand Jury report with findings and recommendations.

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**Response by the Department of Planning and Building
to the Grand Jury Report of June 2006
on the Countywide Transfer of Development Credit (TDC) Program**

FINDINGS

G.J. FINDING 1. The goal of the TDC program is to relocate potential development away from agricultural and environmentally sensitive land and to retire antiquated subdivisions. The relocation is to be close to urban areas where public services would be readily available.

RESPONSE: The Planning and Building Department agrees with this finding. (see Exhibit A attached excerpts from Framework for Planning and the Land Use Ordinance).

G.J. FINDING 2. The TDC program is essentially market-driven. However, developers can find suitable land for development within the urban reserve line or by requesting an amendment to the county's General Plan without having to purchase development credits from a sender site. Until most land within the urban reserve line is developed, there is little or no incentive to purchase credits.

RESPONSE: The Planning and Building Department agrees with this finding.

G.J. FINDING 3. SLO County land is essentially zoned into three categories: urban, agricultural or rural. Land may be zoned agricultural regardless of its actual agricultural value or the Soil Conservation Service land capability grouping.

RESPONSE: The Planning and Building Department agrees with this finding. Land is designated with the Agriculture land use category based on the purpose and character statements set forth in Framework for Planning - Part I of the Land Use Element of the County General Plan (see Exhibit B attached purpose and character statements).

G.J. FINDING 4. SLO County is covered with antiquated subdivisions that can be developed with less compliance to prevailing county environmental regulations and development standards. Most of the antiquated subdivisions are located on agricultural land.

RESPONSE: The Planning and Building Department agrees with this finding.

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G.J. FINDING 5. A ranch in the northern portion of San Luis Obispo County was the pilot TDC sender site with over 5,000 acres preserved. Even though other properties qualified as sender sites, for all practical purposes this ranch remains the most significant sender site.

RESPONSE: The Planning and Building Department agrees with this finding. There are seven approved Sending Site Applications. Of these seven, three Sending Sites have recorded conservation easements and have credits available for sale. 5,463.95 acres have been preserved in conservation easements in perpetuity. The largest of these is the Bonnheim Ranch at 7,200 acres. 5,364 acres have been preserved in perpetuity in conservation easement. There are 1,836 acres left to be preserved.

G.J. FINDING 6. In a May 27, 2004 memorandum to the county Principal Planner, the SLO County Agricultural Commissioner recommended that all land within the Agriculture Land Use category not be eligible as TDC receiver sites.

RESPONSE: The Planning and Building Department agrees with this finding. On November 22, 2005, the Board of Supervisors directed staff to prepare amendments to the TDC program, including changing the eligibility criteria for receiver sites by removing all lands within the Agriculture land use. On June 22, 2006, the Planning Commission held a public hearing on these amendments and recommended to the Board of Supervisors approval of that portion of the amendment. The Board of Supervisors is tentatively scheduled to hear the Planning Commission's recommendation on August 22, 2006.

G.J. FINDING 7. Using input from citizens and area advisory groups, the SLO County Planning Commission developed a set of specific recommendations, the strongest of which was to discontinue use of the TDC program, except for the community based programs and TDC sites that have been, or may be, established as part of the General Plan update.

RESPONSE: The Planning and Building Department agrees with this finding. The staff response to the issues raised in the letter from the Planning Commission were heard by the Board on October 4, 2005.

G.J. FINDING 8. In response to the Planning Commission's recommendations, the SLO County Department of Planning and Building proposed:

- ◆ County staff reevaluate the method used to determine the number of sender credits,
- ◆ County staff reevaluate the allowed uses in the conservation easements and the requirements for conservation easement management,

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- ◆ The Board of Supervisors amend the current policy of allowing receiver sites in agricultural areas to disallow agricultural land being considered as a receiver site and,
- ◆ County staff prepare amendments to the TDC program to encourage growth in urban areas where existing public services can effectively serve the additional density.

RESPONSE: The Planning and Building Department agrees with this finding. The staff response to the issues raised in the letter from the Planning Commission were heard by the Board on October 4, 2005.

G.J. FINDING 9. The Board of Supervisors agreed to form the TDC Blue Ribbon Committee, a broad-based committee, to review the TDC program.

RESPONSE: The Planning and Building Department agrees with this finding. Planning and Building Department recommendations for membership on the Blue Ribbon Committee will be heard by the Board on July 25, 2006.

RECOMMENDATIONS

G.J. RECOMMENDATION 1. The TDC program should continue, providing the recommendations in this report are implemented.

RESPONSE: This recommendation will not be implemented at this time. The Board is in the process of establishing a Blue Ribbon Committee comprised of a cross section of stakeholders to examine the TDC program and make recommendations to the Board regarding its continuation and/or refinement. This recommendation will be considered by the Blue Ribbon Committee as part of their review. The Board of supervisors will then determine any changes to be made to the TDC program and provide direction to staff as to amendments that should be made, if any.

G.J. RECOMMENDATION 2. The Board of Supervisors should develop an incentive program to attract both sender and receiver sites.

RESPONSE: This recommendation will not be implemented at this time but will be considered by the Blue Ribbon Committee established by the Board as noted above.

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G.J. RECOMMENDATION 3. Sender sites should not receive TDCs for land that has no agricultural value.

RESPONSE: Subject to the final review and determination by the Board of Supervisors, the Planning and Building Department does not intend to implement this recommendation because the goal of the voluntary TDC Program is to relocate development from environmentally sensitive land, land with agricultural capability, or antiquated subdivisions to more suitable areas. Environmentally sensitive land or land located within antiquated subdivisions can qualify as sending sites and do forward the goals of the program. This same land also may have no agricultural value. Therefore staff does not agree with the recommendation that Sending Sites should not receive transfer of development credits for land that has no agricultural value.

G.J. RECOMMENDATION 4. Receiver sites should be located in proximity to available public services.

RESPONSE: This recommendation will not be implemented at this time but will be considered by the Blue Ribbon Committee established by the Board as noted above.

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EXHIBIT A

EXCERPTS FROM FRAMEWORK FOR PLANNING AND LAND USE ORDINANCE

Excerpt From Framework for Planning: Consistent with the applicable goals in Chapter 1 of this element, the voluntary TDC Program will relocate development from environmentally sensitive land, land with agricultural capability, or antiquated subdivisions to more suitable areas.

There are a number of objectives the voluntary TDC Program seeks to accomplish. The primary purpose is to promote appropriate settlement patterns while maintaining an overall level of development within the capacities of transportation and other public service systems. As a voluntary countywide program it endeavors to: protect both land with agricultural capability and the business of agriculture itself; reduce development potential within land divisions or other areas that do not have adequate services for residents; protect important or extraordinary natural areas, habitats or cultural resources; reduce development potential in areas that may have the potential for landslides, fires, or other hazards; and reduce air quality impacts associated with locating residential development distant from jobs, schools, shopping and recreation.

Excerpt From Land Use Ordinance: Purpose and intent. The provisions of this Chapter implement the voluntary Transfer of Development Credits Program (TDC) established by the Land Use Element for all applications received by the Department after October 5, 1999, by providing a procedure to allow the voluntary transfer of development credits from one parcel of land to another. Consistent with applicable Land Use Element goals, policies and programs, the objective of this section is to relocate development from environmentally sensitive land, land with agricultural capability or antiquated subdivisions, to more suitable areas. This program is ***voluntary, incentive-based, and market-driven between willing sellers and buyers***. Landowners are ***not obligated*** to use this technique to request an amendment to the general plan or subdivide property in conformance with Chapter 22.22.

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EXHIBIT B

AGRICULTURE - PURPOSE AND CHARACTER STATEMENTS

Purpose

- a. To recognize and retain commercial agriculture as a desirable land use and as a major segment of the county's economic base.
- b. To designate areas where agriculture is the primary land use with all other uses being secondary, in direct support of agriculture.
- c. To designate areas where a combination of soil types, topography, water supply, existing parcel sizes and good management practices will result in the protection of agricultural land for agricultural uses, including the production of food and fiber.
- d. To designate areas where rural residential uses that are not related to agriculture would find agricultural activities a nuisance, or be incompatible.
- e. To protect the agricultural basis of the county economy and encourage the open space values of agriculture to continue agricultural uses, including the production of food and fiber.
- f. To recognize that agricultural activities on a small scale can supplement income from other sources, particularly where older subdivisions have resulted in parcels smaller than would currently qualify for new subdivisions within the parcel size range for the Agriculture category.
- g. Support conversion of agricultural lands to other uses only when such conversion would be appropriate or because the continuing agricultural productivity of a specific site is infeasible, considering the factors in purpose statement C, above.
- h. To give high priority to the protection of commercial prime and nonprime agricultural soils where the commercial viability, siting (whether inside or outside urban reserve lines), and natural resources allow for agricultural uses, including the production of food and fiber.

Character

- a. Areas of prime agricultural soils, and other productive and potentially productive lands located inside and outside of urban and village reserve lines where land use conflicts with other adjacent uses can be mitigated.
- b. Areas for agricultural processing and its support services.
- c. Areas where the residential uses allowed are for property owners or employees actively engaged in agricultural production on the same property.
- d. All lands previously designated as agricultural preserve, whether or not under contract, according to the adopted agricultural preserve rules of procedure.

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- e. Lands that may be eligible for agricultural preserve if the rules of procedure are satisfied.
- f. Areas where existing land uses are mainly truck crops, specialty crops, row and field crops, irrigated crops and pasture, irrigated vineyards and orchards, dry farm orchards and vineyards, dry farm and grain, grazing and rangeland.
- g. Areas where parcel sizes and ownership patterns are sufficiently large to make agricultural operations economically viable, given other features such as soil types, water supply, topography and commercial potential through optimum management.
- h. Areas with an existing pattern of smaller parcels that cannot support self-sustaining agricultural operations, but where physical factors of soil, water supply and topography would support agricultural production.

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